

FOR: RECOGNITION OF EMPLOYEE ORGANIZATIONS REPRESENTING
EMPLOYEES OF THE EXECUTIVE BRANCH AND CONTINUATION OF
THE PUBLIC EMPLOYEES RELATIONS BOARD.

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, Executive Orders 90-6 and 97-8 provide for efficient management of the Executive Branch of State government in the public interest through orderly, constructive, and cooperative relations among employees, employee organizations, and management, and;

WHEREAS, Executive Orders 90-6 and 97-8 established the Public Employees Relations Board and set forth the responsibilities of the Board, and;

WHEREAS, under Indiana Code 4-1-7.1-3, a new Executive Order is necessary for the Public Employees Relations Board to continue in existence.

NOW, THEREFORE, I, Joseph E. Kernan, pursuant to the power vested in me as Governor of the State of Indiana by the Constitution and the laws of this state, do hereby order the following:

1. This Executive Order applies to all employees of the Executive branch.
2. The Public Employees Relations Board (PERB) is continued in existence within the Executive Branch. The PERB is composed of five (5) members appointed by the Governor and serving for terms of four years. Those persons already appointed to the PERB shall continue in office under this Executive Order until completion of their respective terms.
3. The PERB shall have the power to do the following:
 - (a) conduct elections pursuant to this order
 - (b) make determinations of exclusive negotiating organization recognition pursuant to this Order
 - (c) resolve issues that may arise under this Order
4. In order to effectuate its powers under this Order, the PERB shall issue appropriate guidelines. These guidelines may be promulgated as rules by the State Personnel Department under IC 4-15-1.8-7.
5. Staff assistance is needed by the PERB shall be provided by the Indiana Education Employment Relations Board.
6. A. "Executive Branch" means those agencies under the direct authority of the Governor and those agencies under the direct authority of any other elected state officer electing coverage under Section 15 of this Order.

B. The term does not include any of the following:
 - i. bodies corporate and politic;
 - ii. state supported universities and institutions of higher education;
 - iii. the Budget Agency;

- iv. the National Guard;
- v. the State Personnel Department;
- vi. the PERB;
- vii. the Education Employment Relations Board;
- viii. the State Board of Accounts

7. “Employee” means an individual employed by the Executive Branch, unless the individual is any of the following:
- (a) an intermittent employee;
 - (b) a student employee;
 - (c) a temporary employee;
 - (d) a member of a board or commission;
 - (e) a confidential employee;
 - (f) a supervisor;
 - (g) a managerial employee;
 - (h) a patient or resident of a state institution;
 - (i) an individual in the custody of the Department of Corrections or any law enforcement agency;
 - (j) the chief administrative or executive officer of an agency;
 - (k) an attorney whose responsibilities include providing legal advice or performing legal research, a physician, a dentist, or an administrative law judge;
 - (l) an individual who performs internal investigations;
 - (m) teachers at state institutions whose compensations is determined under any of the following:
 - 1. IC 11-10-5-4;
 - 2. IC 16-19-6-7;
 - 3. IC 12-24-3-4.
8. “Confidential employee” means an employee:
- (a) who works in a personnel office;
 - (b) who has access to confidential or discretionary information regarding the formulation of policies or procedures;
 - (c) who works in the office of the Governor or any state officer who provides notice pursuant to Section 15;
 - (d) whose
 - i. functional responsibilities; or
 - ii. knowledge;
 concerning employee relations makes the employee’s membership in an employee organization incompatible with the employee’s duties; or
 - (e) who is the personal secretary of the chief administrative or executive officer of an agency.
9. “Managerial employee” means an individual who is:

- (a) engaged predominately in executive and management functions; or
 - (b) charged with the responsibility of directing the effectuation of management policies and practices.
10. “Supervisor” means an individual having authority in the interest of the Executive Branch to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment.
11. “Temporary employee” means an individual who is employed in a temporary position for not more than ninety (90) days.
12. “Employee organization” means an organization:
- (a) in which employees participate; and
 - (b) that exists for the purpose of dealing with an employer concerning wages, hours, settlement of grievances, and other terms and conditions of employment.
13. “Appropriate unit” means one of the following eleven (11) units:
- 1. Labor, trades, and crafts classes, including the following:
 - (a) carpenters;
 - (b) electricians;
 - (c) plumbers;
 - (d) print shop workers;
 - (e) auto mechanics;
 - (f) maintenance workers;
 - (g) similar classes.
 - 2. Administrative and technical support that includes clerical and administrative nonprofessional classes, including the following:
 - (a) typists;
 - (b) secretaries;
 - (c) account clerks;
 - (d) computer operators;
 - (e) officer service personnel;
 - (f) personnel who provide support services to professionals;
 - (g) other nonprofessional employees who do not meet the standards of other nonprofessional units.
 - 3. Regulatory, inspection , and licensure nonprofessionals that include individuals who review public and commercial activities, including the following:
 - (a) tax examiners;
 - (b) driver’s license examiners;
 - (c) meat inspectors;
 - (d) similar classes.
 - 4. Health and human services nonprofessional, including the following:
 - (a) licensed practical nurses;
 - (b) nursing aides;
 - (c) mental health attendants;

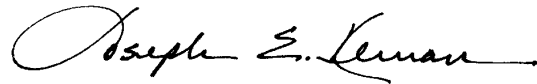
- (d) therapy aides;
 - (e) claims takers;
 - (f) similar classes.
5. Regulatory, inspection, and licensure professional employees empowered to review certain public and commercial activities, including the following:
- (a) revenue auditors;
 - (b) bank and insurance examiners;
 - (c) public health inspectors;
 - (d) similar classes.
6. Health care professional, including the following:
- (a) registered nurses;
 - (b) pharmacists;
 - (c) licensed therapists;
 - (d) similar classes.
7. Social services and counseling professionals who provide services and benefits to eligible persons, including the following:
- (a) employment and training personnel;
 - (b) welfare caseworkers;
 - (c) social workers;
 - (d) counselors;
 - (e) similar classes.
8. Engineering, scientific, and information services professionals, including the following:
- (a) architects;
 - (b) chemists;
 - (c) geologists;
 - (d) civil engineers;
 - (e) computer programmers;
 - (f) system analysts;
 - (g) similar classes.
9. Professional administrative employees with general business responsibilities including the following:
- (a) accountants;
 - (b) buyers;
 - (c) administrators;
 - (d) other professional employees who do not meet the standards of the other professional units.
10. Public safety, protective service workers, and institutional security employees, including the following:
- (a) correctional officers;
 - (b) building guards;
 - (c) firefighters;
 - (d) motor carrier inspectors of the state police department;
 - (e) similar classes.
11. Sworn police officers, including the following:
- (a) law enforcement officers of the state police department;
 - (b) conservation officers of the department of natural resources;

- (c) excise police of the alcohol and tobacco commission.
14.
 - A. The State Personnel Director shall determine the assignment of each employee, including the employees of state officers electing coverage under Section 15, to an appropriate unit, based on the employee's job classification and position.
 - B. In determining the appropriateness of the assignment of an employee to an appropriate unit, the following shall be considered:
 - i. the principles of efficient administration of government, including limiting the fragmentation of government administrative authority
 - ii. the existence of a community of interest among the employees assigned to the bargaining unit;
 - iii. the recommendations of the parties involved.
 15.
 - A. An elected state officer may elect to include the officer's employees to be subject to the Order by submitting a notice to the PERB.
 - B. This notice must be consistent with the provisions of this Order and may not include state employees otherwise excluded.
 16. An employee organization may be accorded recognition as exclusive negotiating organization for an appropriate unit pursuant to the Order.
 17. The State Personnel Director may recognize an employee organization as the exclusive negotiating organization of the members of an appropriate unit when the employee organization has been selected by a majority of the employees voting in an election.
 18. An employee organization may request that an election be held by submitting a petition for election to the PERB. The petition must be accompanied by a showing of interest by thirty percent (30%) of the employees of the appropriate unit.
 19. Within fifteen (15) days of determination that a valid petition has been submitted, the PERB shall notify interested employee organizations of the pending election.
 20. Any interested employee organizations must submit a petition of intervention which must be accompanied by a showing of interest by ten percent (10%) of the employees in the appropriate unit with thirty (30) days of notice of the pending election.
 21. An election under this Order shall be held within a reasonable period of time after the determination of a valid petition for election in accordance with guidelines established by the PERB.
 22. Recognition of an employee organization shall continue so long as such organization satisfies the criteria of this Order and subsequent guidelines applicable to recognition; but nothing in this section shall require the PERB to conduct an election in any unit within twelve (12) months after a valid election with respect to such unit had been held pursuant to the provision of this Order.
 23. Recognition shall not preclude any employee or group of employees, regardless of employee's organization membership, from bringing matters of personal concern to the attention of appropriate officials with a representative of the employee's own choosing in a grievance proceeding in accordance with applicable rule or established policy.
 24. An employee organization recognized as the exclusive negotiating organization of employees of an appropriate unit shall be:

- (a) Permitted to speak on behalf of all members of the unit and shall be responsible for representing the interests of all members without discrimination and without regard to employee organization membership; and
 - (b) exclusively permitted to have organizational membership dues collected by paycheck withholding upon signed written request of employee conforming to law. This privilege shall be immediately revoked by the State Personnel Director in the even of a violation of Section 28(C) of this Order; and
 - (c) entitled to meet and negotiate with the State Personnel Director or the Director's designee on wages, hours, and working conditions in an effort to reach a settlement subject to the approval of the Governor.
25. A. Employees shall have the right, freely and without fear of penalty or reprisal, to form, join and assist any lawful employee organization, or to refrain from any such activity.
- B. The rights described in this section do not extend to participation in the management of an employee organization, or acting as a representative of any organization, where such participation or activity would result in a conflict of interest or otherwise be incompatible with law or with the official duties of an employee.
26. Executive Branch management officials retain the right and responsibility:
- (a) to direct employees;
 - (b) to hire, promote, transfer, assign, and retain employees in positions, and to suspend, demote, discharge, or take other disciplinary action against employees;
 - (c) to relieve employees from duties because of lack of work or for other reasons not prohibited by law;
 - (d) to maintain the efficiency of the operations entrusted to them;
 - (e) to determine the methods, means and personnel by which such operations are to be conducted; and
 - (f) to take whatever actions may be necessary to carry out the statutory and constitutional mission of the Executive Branch.
27. Solicitation of membership, dues, or other internal employee organization business may be conducted only on nonduty hours of the employees concerned.
28. A. The State is entitled to terminate the employment of any employee who participates in, threatens, or encourages any strike, slowdown, work stoppage, or other interruption or interference with the activities of the State, or abstinence in whole or in part from the full, faithful, and proper performance of the employee's duties of employment.
- B. An employee dismissed for violation of the above conditions may not be rehired by the Executive Branch for one (1) year following the dismissal.
- C. Any employee organization that participates in, threatens, or encourages any strike, slowdown, work stoppage, or other interruption or interference with the activities of the State shall cease to be accorded recognition under this Order and shall cease to receive organizational membership dues collected by paycheck withholding.

- D. No recognition or organizational membership dues collected by paycheck withholding shall be accorded any such employee organization for a period of one (1) year.
29. This Order may be revoked or amended by the Governor at any time.
30. The provisions of this Order shall in no way diminish or infringe any rights, responsibilities, powers or duties conferred by the Constitution of the State of Indiana, the Indiana Code, or the Indiana Administrative Code.
31. The existing Settlements with the Unity Team and with AFSMCE Council 62 are extended without interruption and do not expire until superseded by an Executive Order implementing successor agreements. The Settlements do not supersede any existing or future statute, promulgated rule, or other Executive Orders.
32. The Public Employees Relations Board's certification of the election results and the State Personnel Director's recognition of Indiana Professional Law Enforcement Association, AFL-CIO, Local 1041, International Union as the exclusive negotiating organization for Unit 11 are also contained in effect.
33. This Order is effective as of September 13, 2003

IN TESTIMONY WHEREOF, I, Joseph E. Kernan, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 1st day of October, 2003.



Joseph E. Kernan
Governor of Indiana

ATTEST: Todd Rokita
Secretary of State